

Serial No.09/783/441

RD-26,782/USA

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In re Application of: MARK PHILIP D'EVELYN et al. : Group Art Unit: 1754

Serial No.: 09/783,441 : Examiner: S. Hendrickson

Filed: February 14, 2001 : Paper No.: 5

For: SURFACE IMPURITY-ENRICHED DIAMOND AND METHOD OF MAKING

PROVISIONAL ELECTION WITH TRAVERSE

Assistant Director of Patents and Trademarks
United States Patent and Trademark Office
Washington, DC 20231

Sir:

Applicants appreciate the consideration shown by the Office, as evidenced by the Restriction Requirement mailed on December 4, 2002. In that Restriction Requirement, the Examiner required an election between Group I (Claims 1, 3-9, 13, 16-18, 20, 21, and 25-42) and Group II (Claims 23 and 24). Accordingly, Applicants provisionally elect Group I (Claims 1, 3-9, 13, 16-18, 20, 21, and 25-42), with traverse.

Applicants submit that MPEP §803 explicitly states: "If the search and examination of the entire application can be made without serious burden, the examiner *must* examine it on the merits even though it includes claims to independent or distinct inventions." Applicants submit that the search and examination of claims drawn to a diamond (as claimed in Group I) and claims drawn to a method of making such a

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diamond (as claimed in Group II) do not impose a serious burden upon the Examiner, and that the entire application should be examined on the merits.

In light of the remarks presented herein, Applicants respectfully submit that the criteria for requiring restriction have not been met, and respectfully request that the Examiner withdraw the Restriction Requirement. If, however, any issues remain unresolved, the Examiner is invited to telephone the Applicants' attorney at the number provided below.

Respectfully submitted,



Robert P. Santandrea
Counsel for Applicants
Registration No. 45,072
Telephone: (518) 387-6304 or
(518) 387-7122

Schenectady, New York

December 27, 2002